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Paper No. 10

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

In re Application of
Maloney et al.
Application No. 09/755,312
Filed: December 19, 2000
Attorney Docket No. PA000190

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MAR 29 2004

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition under 37 CFR §1.137(b), filed March 18, 2004. This petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application became abandoned for failure to timely submit a response to the Office Action mailed July 10, 2003. The Notice set an extendable 1 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on August 11, 2003. A Notice of Abandonment was mailed on February 19, 2004.

Petitioner maintains the a Response to the Office Action was timely submitted on July 28, 2003. In support, petitioner has provided a copy of an stamped post card receipt. The postcard acknowledges receipt of an Amendment on July 28, 2003. The postcard receipt serves as prima facie evidence the documents listed were received at the USPTO. However, a review of the file indicates Amendment cannot be located. Accordingly the copy of the amendment submitted with the petition will be used for examination purposes.

Based on the facts stated in the instant petition, and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR §1.181, the Petitioner's request to have the petition considered under 37 CFR §1.137(b) is dismissed as moot.

This application is being forwarded to Technology Center 2600 for further processing of the amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

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Office of Petitions